



DIVISION OF
ENFORCEMENT

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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June 7, 2013

Via E-mail (ForrestNYSDChambers@nysd.uscourts.gov)

Honorable Katherine B. Forrest
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: JUN 10 2013**

RE: **U.S. Securities & Exchange Commission v. Fabrice Tourre**
Civil Action No. 10 CV 3229 (KBF)

Dear Judge Forrest:

I write pursuant to the Court's instruction that the parties provide their respective witness lists by today. In accordance with the Court's April 29 Order, the attached list identifies the SEC's witnesses with a brief description of the reason for calling each witness. The list is not intended as a comprehensive recitation of the expected testimony of each witness. In addition, the SEC reserves the right to supplement the list in response to the defense review of the ACA recordings.

We also wanted to bring to the Court's attention a dispute that has arisen between the defense and Lucas Westreich, one of the participants on the January 17 call whom the defense subpoenaed in December 2012 to appear at trial. On May 15, 2013, Mr. Westreich's counsel advised the defense that Mr. Westreich was willing to appear for a deposition relating to the January 17 call anytime throughout June, but would not be available for trial because he is getting married on July 13 and will be out of the country on his honeymoon from July 14 through July 27. (May 15, 2013 Welch Letter to Chepiga (Ex. 1).) We consent to the defense using a videotape of Mr. Westreich's deposition at trial to accommodate his wedding plans, and have communicated this to Mr. Westreich's counsel, but Tourre's counsel is insisting that Mr. Westreich appear as a live witness at trial absent relief from the Court. (May 16, 2013 Chepiga Letter to Welch (Ex. 2); May 31, 2013 Chepiga Letter to Welch (Ex. 3).)

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We look forward to meeting with the Court on June 10 and can make ourselves otherwise available at the Court's convenience to address this matter further if necessary.

Respectfully,



Christian D. H. Schultz
Assistant Chief Litigation Counsel

cc: All Counsel of Record (via electronic mail)

SEC v. Tourre
Witness List

1. **Dr. Dwight Jaffee** – “definitional” witness who will explain basic concepts concerning mortgages, RMBS, CDOs, credit default swaps, etc.
2. **Ira Wagner** – expert witness who will testify to the opinions set forth in his expert report and deposition testimony, including normal practices in the CDO industry and the expectations and understandings of a reasonable investor in that industry in 2007.
3. **Andrew Davidson** -- expert witness who will testify to the opinions set forth in his expert report and deposition testimony, including, among other things, his quantitative analysis of the performance of the AC1 reference portfolio.
4. **Sihan Shu** – employee of Paulson & Co. who can testify about his analysis of subprime RMBS for inclusion in the AC1 reference portfolio and the objective of that analysis.
5. **Paolo Pellegrini** – employee of Paulson & Co. who met can testify as to his interactions with Tourre and ACA in the course of soliciting ACA’s participation as portfolio selection agent and constructing the AC1 reference portfolio.
6. **Paulson & Co. custodian of records** – whether a custodian of records will be needed and the identity of the necessary custodian will depend on the objections, if any, raised by the defense to the SEC’s exhibit list.
7. **Jonathan Egol** – employee of Goldman Sachs who can provide an overview of the AC1 transaction and testify as to Tourre’s primary role and responsibility for the AC1 transaction.
8. **David Gerst** – employee of Goldman Sachs who can provide an overview of the AC1 transaction, testify as to Tourre’s primary role and responsibility for the AC1 transaction, the documentation of the transaction, and the marketing of the transaction to investors.
9. **Shin Yukawa** – employee of Goldman Sachs who can testify about the closing of the AC1 transaction and his interactions with, and concerns raised by, the rating agencies during the AC1 transaction.
10. **Gail Kreitman** – employee of Goldman Sachs who was an intermediary between Tourre and ACA who can testify as to her contemporaneous understanding of Paulson’s role in the transaction, the source of her information regarding the transaction, and the January 17 call to ACA.
11. **Fabrice Tourre** – the defendant
12. **Michael Nartey (deposition video)** – employee of Goldman Sachs International who can testify regarding efforts to market the AC1 notes to IKB.

13. **Trevor Williams (or other similar witness)** – employee of Goldman Sachs who can testify as to the mechanics of the transfers of the AC1 notes at and after closing.¹
14. **Joseph Yanagisawa** – an IT professional of Goldman Sachs who can testify as to the distribution and receipt of certain emails.
15. **Goldman Sachs custodian of records** – whether a custodian of records will be needed and the identity of the necessary custodian will depend on the objections, if any, raised by the defense to the SEC's exhibit list.
16. **Eli Boyajian** – an IT professional at ACA who can authenticate the January 17 recording.²
17. **Laura Schwartz** – employee of ACA who was the primary point of contact with Tourre and who can testify as to her interactions with Tourre and Paulson, her understanding that Paulson was an “equity” investor in the AC1 transaction, and the importance of that understanding to ACA’s decision to participate in the transaction.
18. **Alan Roseman** – employee of ACA who was the president of ACA Capital who can testify as to his understanding that Paulson was an “equity” investor in the AC1 transaction and the importance of that understanding to ACA’s decision to invest in the super senior tranche of the AC1 reference portfolio.
19. **ACA custodian of records** – whether a custodian of records will be needed and the identity of the necessary custodian will depend on the objections, if any, raised by the defense to the SEC's exhibit list.
20. **Alasdair Hunter (deposition video)** – director of the Loreley entities who can testify about the investment process and decision with regard to the AC1 notes.
21. **Dean Atkins (deposition video)** – employee of ABN Amro who communicated with Tourre and who can testify as to his understanding about portfolio selection and the importance of that understanding to ABN Amro’s decision to participate in the AC1 transaction.

¹ The SEC has submitted a proposed stipulation to defense counsel that would, if accepted, obviate the need for Mr. Williams’ testimony.

² The SEC requested that the defense stipulate to the authenticity of the January 17 recording, but defense counsel declined.

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May 15, 2013

BY EMAIL

Pamela Rogers Chepiga, Esq.
Allen & Overy LLP
1221 Avenue of the Americas
New York, NY 10020

Re: SEC v. Fabrice Tourre, 10-CV-3229 (KBF)

Dear Pamela:

We represent non-party Lucas Westreich in connection with the above action. We write concerning the schedule for any pre-trial examination of or trial testimony by Mr. Westreich.

First, we understand that your client, defendant Fabrice Tourre, intends to seek the deposition of Mr. Westreich prior to the trial presently scheduled to commence on July 15, 2013. Mr. Westreich is generally available in June. Please propose dates in June for Mr. Westreich's deposition as soon as possible.

Second, in connection with defendant's trial subpoena to Mr. Westreich, please be advised that Mr. Westreich is getting married on July 13 and will be out of the country on honeymoon from July 14 through July 27. Please call me to discuss how we can accommodate Mr. Westreich's schedule.

Sincerely,

Trevor J. Welch

cc: Christian D.H. Schultz, Esq.
Securities and Exchange Commission

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Our ref PRC/0018147-0000152 NY:16817136.1 May 16, 2013

Re: SEC v. Fabrice Tourre 10CV3229 (KBF) May 16, 2013

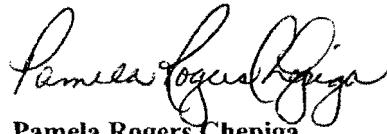
Dear Mr. Welch:

In response to your letter dated May 15, 2013,

First, we are in the process of reviewing the voice recordings which your client, ACA, is producing. We are informed by your client, ACA, that its production will not be completed until June 7, 2013. Once we have received and listened to the ACA voice recordings, we will make a determination as to whether to take the deposition of your other client, Lucas Westreich.

Second, on December 27, 2012, you accepted service of Mr. Westreich's subpoena for this trial, which, as noted in the subpoena, begins on Monday, July 15, 2013. As we discussed on the telephone earlier this week, the trial is expected to be concluded within two weeks. As your letter from yesterday indicates, for the first time, that Mr. Westreich intends to be "out of the country" from July 14 through July 27, there appears to be no way to "accommodate" his travel schedule. To be absolutely clear, we do indeed intend to call Mr. Westreich as a trial witness. Accordingly, if you wish to seek relief from the subpoena you accepted service of five months ago, you would need to address your request to Judge Katherine B. Forrest, who has made it clear to the parties that she intends to begin the trial on the date set, July 15th, and to move it expeditiously.

Sincerely,



Pamela Rogers Chepiga

cc: Christian D. H. Schultz, Esq.

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Mr. Trevor Welch
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Our ref PRC/0018147-0000152 NY:16891004.1 May 31, 2013

Re: SEC v. Fabrice Tourre 10CV3229 (KBF)

Dear Mr. Welch:

In response to your voice mail message yesterday and as set forth in our May 16, 2013 letter, it remains our professional judgment that it is essential that we call your individual client, Lucas Westreich, as a live witness at trial. Mr. Westreich is a participant in the January 17, 2007 telephone conversation that the SEC has, in its summary judgment papers, made the centerpiece of its case. Mr. Tourre is entitled to have the jury evaluate Mr. Westreich's testimony and weigh his credibility, which is far more difficult to do based on the playing of a video tape.

Moreover, as you are well aware in your dual role as counsel to ACA, ACA's production of voice recordings will not be completed before June 7, 2013 and, given the time required to load and review the ACA voice recordings, our evaluation and analysis of those tapes will not be concluded for several weeks thereafter, close to the eve of trial.

Judge Forrest's denial of our motion to preclude the tape recording of your client's January 17, 2007 call, and the resultant belated production of the ACA tapes, has required us to prepare for trial while facing newly emerging facts and a newly surfaced SEC theory of the case linked directly to that call. Given that none of the Goldman Sachs or ACA trial witnesses were questioned about the still-being-produced tapes at their depositions taken over two years ago, we will need to call Mr. Westreich in our defense case at trial, and question him on the still emerging facts and whatever newly surfaced legal and factual propositions the SEC may seek to present in its case. Unlike every other civil case where the factual record is complete and essentially frozen months prior to trial, our need to defend our client in the

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shifting sands of this case precludes us from agreeing to excuse Mr. Westreich from compliance with the subpoena requiring his trial testimony, which you accepted service of on December 27, 2012.

Sincerely,



Pamela Rogers Chepiga

Pamela Rogers Chepiga

cc: Christian D. H. Schultz, Esq.
John P. Coffey, Esq.